

NOTICE TO MORTGAGOR OF MAXIMUM  
RECAPTURE TAX AND OF METHOD TO  
COMPUTE RECAPTURE TAX ON SALE OF HOME

Mortgagor:\_\_\_\_\_

SSN:\_\_\_\_\_

Co-Mortgagor:\_\_\_\_\_

SSN:\_\_\_\_\_

Address of Residence Financed:\_\_\_\_\_

\_\_\_\_\_

\*1. Mortgage Loan Closing Date:

\*2. "Federally Subsidized Amount"  
(Principal Balance at Closing Date)

3. Highest Qualifying Income as of the Closing Date for the Area in which the Residence is Located:

(i) 2 or less (for small household)\_\_\_\_\_

(ii) 3 or more (for large household)\_\_\_\_\_

TABLE			
		(COLUMN 2) Adjusted Qualifying Income	
Date that you sell your home	(Column 1) Holding Period  Percentage	Number of Family Members Living in Your Home at the Time of Sale	
		2 or less	3 or more
a) Before the first anniversary of closing	20%	\$_____ [*]	\$_____ [*]
b) On or after the first anniversary of closing, but before the second anniversary of closing	40%	\$_____ [*]	\$_____ [*]
c) On or after the second anniversary of closing, but before the third anniversary of closing	60%	\$_____ [*]	\$_____ [*]
d) On or after the third anniversary of closing, but before the fourth anniversary of closing	80%	\$_____ [*]	\$_____ [*]
e) On or after the fourth anniversary of closing, but before the fifth anniversary of closing	100%	\$_____ [*]	\$_____ [*]
f) On or after the fifth anniversary of closing, but before the sixth anniversary of closing	80%	\$_____ [*]	\$_____ [*]
g) On or after the sixth anniversary of closing, but before the seventh anniversary of closing	60%	\$_____ [*]	\$_____ [*]
h) On or after the seventh anniversary of closing, but before the eighth anniversary of closing	40%	\$_____ [*]	\$_____ [*]
i) On or after the eighth anniversary of closing, but before the ninth anniversary of closing	20%	\$_____ [*]	\$_____ [*]
NOTE: Closing means the date funds are disbursed to or for the benefit of the mortgagor and the mortgagor is liable for payment of the loan.			

The numbers denoted with \* are important for you to retain. These numbers will be needed for you to complete the IRS Recapture Tax form upon the sale of your home. The responsibility to compute and pay any potential recapture tax is yours. Neither the lender nor the Board of Housing will be providing you with any further information regarding the recapture tax provisions.

- A. Introduction
1. General  
When you sell your home you may have to pay a recapture tax as calculated below. The recapture tax may also apply if you dispose of your home in some other way. Any reference in this notice to the "sale" of your home also includes other ways of disposing of your home. For instance, you may owe the recapture tax if you give your home to a relative.
2. Exceptions  
In the following situations, no recapture tax is due and you do not need to do the calculations:
- (a) You dispose of your home later than nine years after you close your mortgage loan;
  - (b) Your home is disposed of as a result of your death;
  - (c) You transfer your home either to your spouse or to your former spouse incident to divorce and you have no gain or loss included in your income under section 1041 of the Internal Revenue Code; or
  - (d) You dispose of your home at a loss.
- B. Maximum Recapture Tax  
The maximum recapture tax that you may be required to pay as an addition to your federal income tax is \$[insert the actual dollar amount resulting from the product of 6.25% multiplied by the highest principal amount of the mortgage loan]. This amount is 6.25% of the highest principal amount of your mortgage loan and is your federally subsidized amount with respect to the loan.
- C. Actual Recapture Tax  
The actual recapture tax, if any, can only be determined when you sell your home, and is the lesser of:
- 1. 50% of your gain on the sale of your home, regardless of whether you have to include that gain in your income for federal income tax purposes; or
  - 2. Your recapture amount determined by multiplying the following three numbers:
    - (i) \$[insert the actual dollar amount resulting from the product of 6.25% multiplied by the highest principal amount of the mortgage loan] (the maximum recapture tax, as described in paragraph B above),
    - (ii) The holding period percentage, as listed in Column 1 in the Table, and
    - (iii) The income percentage, as described in paragraph D below.
- D. Income Percentage  
You calculate the income percentage as follows:
- (i) Subtract the applicable adjusted qualifying income in the taxable year in which you sell your home, as listed in Column 2 in the Table, from your modified adjusted gross income in the taxable year in which you sell your home.  
  
Your modified adjusted gross income means your adjusted gross income shown on your federal income tax return for the taxable year in which you sell your home, with the following two adjustments:
    - (a) Your adjusted gross income must be increased by the amount of any interest that you receive or accrue in the taxable year from tax-exempt bonds that is excluded from your gross income (under section 103 of the Internal Revenue Code); and
    - (b) Your adjusted gross income must be decreased by the amount of any gain included in your gross income by reason of the sale of your home.
  - (ii) If the amount calculated in (i) above is zero or less, you owe no recapture tax and do not need to make any more calculations. If it is \$5,000 or more, your income percentage is 100%. If it is greater than zero but less than \$5,000, it must be divided by \$5,000. This fraction, expressed as a percentage, represents your income percentage. For example, if the fraction is \$1,000/\$5,000, your income percentage is 20%.
- E. Limitations and Special Rules on Recapture Tax
- 1. If you give away your home (other than to your spouse or ex-spouse incident to divorce), you must determine your actual recapture tax as if you had sold your home for its fair market value.
  - 2. If your home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if, within two years, you purchase additional property for use as your principal residence on the site of the home financed with your original subsidized mortgage loan.
  - 3. In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage loan, the actual recapture tax is determined separately for them based on their interests in the home.
  - 4. If you repay your loan in full during the nine year recapture period and you sell your home during this period, your holding period percentage may be reduced under the special rule in section 143(m)(4)(C)(ii) of the Internal Revenue Code
  - 5. Other special rules may apply in particular circumstances. You may wish to consult with a tax advisor or the local office of the Internal Revenue Service when you sell or otherwise dispose of your home to determine the amount, if any, of your actual recapture tax. See section 143(m) of the Internal Revenue Code generally.

Provisions of the Internal Revenue Code are, in all respects, subject to change, revision, interpretation, revision or repeal by the Congress. The above is not intended to be other than a general summary of certain complicated provisions of the Code relating to the recapture tax provisions, and is not intended as a substitute for your review of such provision. Neither the Montana Board of Housing, the Lender, nor any other party to the Board's Program takes any responsibility in any way relating to the recapture tax.

The undersigned Mortgagor(s) has (have) received and read a duplicate copy of the foregoing "Notice to Mortgagor of Maximum Recapture Tax and of Method to Compute Recapture Tax on Sale of Home."

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

INSTRUCTIONS FOR COMPLETING  
"NOTICE TO MORTGAGOR OF MAXIMUM RECAPTURE TAX AND OF  
METHOD TO COMPUTE RECAPTURE TAX ON SALE OF HOME"

Complete the Mortgagor and Co-Mortgagor name and Social Security Number as they appear on the Title to the property and the loan documents.

Address of Residence Financed is the street address of the property financed. Do not use mortgagors mailing address.

- 1. The Mortgage Loan Closing Date is the date funds are disbursed to or for the benefit of the mortgagor and the mortgagor is liable for payment of the loan. Do not use the loan settlement date if it differs from the loan disbursement date.
- 2. The "federally subsidized loan amount" is the principal amount of the loan on the loan documents (i.e. the Note, Trust Indenture, and HUD Settlement Statements).
- 3. The highest qualifying federally imposed income limits by area are listed below. Select the income limits that apply to the area the residence is located.

For example a residence located in Miles City, the highest state qualifying income limits would be:

2 or less (small household) - \$47,500  
3 or more (large household) - \$54,625

Table Column 2 - The "adjusted qualifying income" for each category of family size for each year of the 9-year period beginning on the closing date is to be provided.

The entries in Row(a) are the federal recapture amounts. The entries in each subsequent Row (b through i) equal the entries in the immediately preceding Row times 1.05.

For example, a residence in Miles City:  
Row (a)        2 or less - \$48,150                    3 or more - \$55,375  
Row (b)        2 or less - \$50,557                    3 or more - \$58,143  
Row (c)        2 or less - \$53,085                    3 or more - \$61,051

Please feel free to contact us with your questions or concerns.